SAO 245B (Rev. 06/05) Judgment in a Criminal Case Sheet 1 UNITED STATES DISTRICT COU E FILED: District of **SOUTHERN** JUDGMENT IN A CRIMINAL CASE UNITED STATES OF AMERICA ROBERT MOFFAT, JR. 10 CR. 270 DAB Case Number: **USM Number:** 62789-054 KENNETH SCHACTER AND KERRY LAWRENCE Defendant's Attorney THE DEFENDANT: X pleaded guilty to count(s) ONE AND TWO ON 3/29/2010 pleaded noto contendere to count(s) which was accepted by the court. was found guilty on count(s) after a plea of not guilty. The defendant is adjudicated guilty of these offenses: Title & Section Nature of Offense Offense Ended Count 18 USC § 371 CONSP. TO COMMIT SECURITIES FRAUD OCT. 2008 1 15 USC § 78j(b) & 2 SECURITIES FRAUD **SEPT. 2008** 78ff The defendant is sentenced as provided in pages 2-6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. ☐ The defendant has been found not guilty on count(s) are dismissed on the motion of the United States. ☐ is Count(s) It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances. **SEPTEMBER 13, 2010** Date of Imposition of Judgment DEBORAH A. BATTS, UNITED STATES DISTRICT JUDGE Name and Title of Judge Tember 16, 2010

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DEFENDANT: CASE NUMBER:			RÖBERT MOFFAT, JR. 10 CR 270 DAB	
CASE	UNIDE		10 CR 270 DAD	
			IMPRIS	ONMENT
total teri		defendant	is hereby committed to the custody of	he United States Bureau of Prisons to be imprisoned for a
SIX M	ONTI	HS.		
The De	fenda	nt is noti	fied of his right to appeal.	
			8 11	
X			akes the following recommendated to Otisville	
	The d	efendant is re	emanded to the custody of the United States Mar	shal.
	The d	efendant shal	ll surrender to the United States Marshal for this	district:
		at	a.m.	on
		as notifie	ed by the United States Marshal.	
X	The	defendan	t shall surrender for service of sent	ence at the institution designated by the Bureau of Prisons:
	X	on	NOVEMBER 5, 2010.	(Per attached memo endorsed Order dated Sept. 14, 2010.)
		as notifie	ed by the United States Marshal.	
		as notifie	ed by the Probation or Pretrial Service	s Office.
			-	
			RET	TURN
I house on		this indep	nent as follows:	
I nave ex	ecuteu	tins juugn	nent as follows:	
	D . C			4.
				to
at		· •	, with a certified c	opy of this judgment.
				UNITED STATES MARSHAL
				DEPUTY UNITED STATES MARSHAL

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6

DEFENDANT:

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ROBERT MOFFAT, JR.

CASE NUMBER:

10 CR 270 DAB

SUPERVISED RELEASE

TWO YEARS.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☐ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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DEFENDANT: ROBERT MOFFAT, JR.

CASE NUMBER: 10 CR 270 DAB

SPECIAL CONDITIONS OF SUPERVISION

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1. The Defendant shall pay a special assessment of \$200 within 60 days of release from imprisonment.

2. The Defendant shall pay a fine of \$50,000.00, with interest, within 12 months from release from imprisonment.

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(Rev. 06/05) Judgment in a Criminal Case Sheet 5 — Criminal Monetary Penalties

					Judgment — Pa	age <u>5</u> of <u>6</u>	
	FENDANT: SE NUMBER	ROBERT MOFI 10 CR 270 DAB	FAT, JR.				
CA	SE NUMBER	•	CRIMINAL MON	ETARY PENAI	LTIES		
	The defendar	nt must pay the total criminal	monetary penalti	es under the sch	edule of payments on	Sheet 6.	
то	TALS \$	Assessment 200.00	****	<u>ine</u> 0,000.00		tution RESTITUTION	
	The determin	nation of restitution is deferre termination.	ed An	Amended Judg	ment in a Criminal	Case (AO 245C) will be	
	The defendar	nt must make restitution (incl	uding community	restitution) to t	he following payees in	the amount listed below.	
	If the defend otherwise in victims must	ant makes a partial paymen the priority order or percent be paid before the United Sta	t, each payee sha age payment colu ites is paid.	ll receive an ap mn below. How	proximately proporti vever, pursuant to 18	oned payment, unless spec U.S.C. § 3664(I), all nonfe	cified deral
<u>Nar</u>	me of Payee	Total L	oss*	Restitutio	n Ordered	Priority or Percentage	<u>e</u>
TO	TALS	\$	0	\$	0		
	Restitution a	amount ordered pursuant to p	olea agreement				
X	fifteenth day	The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).					
	The court de	etermined that the defendant	does not have the	ability to pay in	terest and it is ordere	d that:	
	☐ the interest requirement is waived for ☐ fine ☐ restitution.						
	☐ the inter	rest requirement for	fine restitu	ution is modified	l as follows:		

^{*} Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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(Rev. 06/05) Judgment in a Criminal Case Sheet 6 - Schedule of Payments

		Judgment — Page	6of	6
DEFENDANT:	ROBERT MOFFAT, JR.			
CASE NUMBER:	10 CR 270 DAB			

SCHEDULE OF PAYMENTS

Ha	ving a	assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:		
A		Lump sum payment of \$ due immediately, balance due		
		☐ not later than, or ☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or		
В		Payment to begin immediately (may be combined with C, D, or F below); or		
C		Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after the date of this judgment; or		
D		Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or		
E	Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or			
F	X Special instructions regarding the payment of criminal monetary penalties:			
		The Defendant shall pay a special assessment of \$200 within 60 days of release from imprisonment.		
		The Defendant shall pay a fine of \$50,000.00, with interest, within 12 months from release from imprisonment.		
Unl dur Fin	ess th ing ir ancia	e court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is du nprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmat I Responsibility Program, are made to the clerk of the court.		
The	defe	ndant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.		
	Joir	at and Several		
		endant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several corresponding payee, if appropriate.		
	The	defendant shall pay the cost of prosecution.		
	The	defendant shall pay the following court cost(s):		
	The	defendant shall forfeit the defendant's interest in the following property to the United States:		

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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DATE FILED:

DOE #:

VINCENT L. BRICCETTI* CLINTON W. CALHOUN. III** KERRY A. LAWRENCE.

*ALSO ADMITTED IN GT

""ALSO ADMITTED IN VA & DC

September 14, 2010

Via Fax (212) 805-7902

Hon. Deborah A. Batts United States District Court Judge Southern District of New York 500 Pearl Street, Room 2510 New York, New York 10007-1312

Re:

United States v. Robert Moffat, Jr.

10 Cr. 270 (DAB)

Dear Judge Batts:

I am writing to request that the surrender date set by the Court at yesterday's sentencing of Mr. Moffat be accelerated to November 5, 2010.

Mr. Moffat, his family and counsel greatly appreciate the Court's consideration yes in setting a surrender date that would permit Mr. Moffat to both spend the holidays with his family and attend his son's college graduation in May, 2011. Mr. Moffat has discussed this matter with his family and they collectively feel that the pendency of a prison sentence creates substantially more stress than the benefit of spending the holidays together. The Moffats believe strongly that the entire family would be better off if Mr. Moffat were able to complete serving his sentence and be home in time for graduation.

I have talked with the designation unit at the Bureau of Prisons in Texas and am told that if the Court sets the above-requested surrender date of November 5, 2010 there is no anticipated problem in having Mr. Moffat's designation by that date.

Hon. Deborah A. Batts, U.S.D.J. September 14, 2010 Page 2

I have also discussed this matter with Special Assistant United States Attorney Andrew Michaelson and he consents to the request for an earlier surrender date for Mr. Moffat.

Mr. Moffat and counsel greatly appreciate the Court's consideration in this matter.

Respectfully submitted,

Kerns. Leur

Kerry A. Lawrence

cc: AUSA Andrew Michaelson (via email)

SO ORDERED

UNITED STATES DISTRICT JUDGE

Sept 16, 2010